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10/639,070	08/12/2003	Steven E. Riedl	61575.1030	6931
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EXAMINER BANTAMOL, ANTHONY				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/639,070

Applicant(s)

RIEDL, STEVEN E.

Examiner

ANTHONY BANTAMOI

Art Unit

2423

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-22, 28-29, 31-42, 44-49, 60-64, 66-67, 76-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-22, 28-29, 31-42, 44-49, 60-64, 66, 67, 76 and 77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/09/2010 has been entered.

Response to Arguments

Applicant's arguments filed 9/9/2010 have been fully considered but they are not persuasive.

With respect to claim 1, Applicant argues that Kinder and Hendricks does not teach or suggest "in response to a detection of the indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content" (See Remarks on page 10, last paragraph to page 11, first second and third paragraphs).

Examiner disagrees in light of the new interpretation of Kinder and Hendricks. Examiner maintains that Hendricks teaches utilization of the group assignment matrix at terminals to determine which of the feeder channels to tune to among the plurality of feeder channels in order to receive alternate targeted advertisements in place of initially scheduled default advertisements during an advertisement break [col. 71, ll. 57-67-col. 72, ll. 51] which meets "generating a list of individual ones of the plurality of user

terminals receiving a programming content" however, Examiner recognizes that Hendricks is silent generating a list, in response to the detection of the indicator during the delivery of the programming content.

But Kinder teaches dynamically updating demographic viewer profile based on the current viewership in near real-time and does so by receiving and indicator indicative of a change in current viewership at the headend, wherein the system replace already scheduled advertisements with alternate ones that are deemed to better satisfy the current viewership based the recently updated user profile detected by the system and wherein the system is able to target a specific group of viewers in the overall group of current viewers (pg. 3, ll. 29-33, pg. 4, ll.1-12, 31-33, pg. 5, ll. 1-33, pg. 6, ll. 1-24, pg. 7, ll. 1-9) which meets "in response to a detection of an indicator, generating a list of the individual ones of the plurality of user terminals currently receiving the programming content" (the feedback information meets "an indicator in the delivery of a selected programming content" and it is indicative of the event (change in current viewership) (note: A list of terminals currently receiving the programming content is inherent because the system has to selectively filters terminals in order to target a subset of the currently active group of terminals see col. 5, ll. 21-23)).

Therefor it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the time at which the list of Hendricks is generated to include generating a list of the sub set of terminals to be targeted that are currently receiving the selected programming content, in response to a detection of an indicator as taught by Kinder in order to obtain a near real-time list of terminals receiving a

current program, making it possible to target an entire group or sub group based on the most updated group or sub group profile, thereby increasing the effectiveness of the targeted advertisement.

Examiner further notes that Applicants invention does not require the indication to be present inside the broadcast signal it only needs to occur during the time of video delivery and Kinder is targeting its subset of subscribers in near-real time in the same manner as recited in Applicants claim1. The combination of Hendricks and Kinder therefore teach claim 1 as recited.

Similar arguments in re of Kinder and Hendricks apply to claim 9 as in claim 1.

Applicant's arguments with respect to claims 28, and 60 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 76-77 are rejected under 35 U.S.C. 102(a) as being anticipated by US Patent 6,463,585 to Hendricks et al. (Hendricks).

Regarding claim 76, Hendricks teaches receiving a request for a scheduled programming content from a set of user terminals; in response to the request, transmitting a program stream comprising the scheduled programming content (col. 15, ll. 56-59); detecting, in the transmitted program stream, information relating to a

scheduled programming segment (col. 12, ll. 31-34, & col. 22, ll. 37-43) ; specifying a first and second subset of user terminals within a the set of user terminals currently receiving the program stream (col. 26, ll. 54-col. 27, ll. 6 (sets groups based on criterion; groups meet "fist and second subset of terminals")); generating, based at least in part on the first and second subsets, first and second data streams containing respective alternate programming segments for substitution of the scheduled programming segment (col. 26, ll. 36-41); providing a first transmission channel over which the program stream is transmitted (col. 26, ll. 15-24); based at least in part on the availability of a second transmission channel, directing at least one user terminal within the first subset to tune from the first transmission channel to the second transmission channel over which the first data stream containing alternate programming segments is transmitted (col. 30, ll. 54-66 (one reason why the manage will be unable to provide a feeder channel is in part dependent on channel unavailability see col. 27, ll. 22-28); and based at least in part on the availability of a third transmission channel, directing at least one user terminal within the second subset to tune from the first transmission channel to the third transmission channel over which the second data stream containing alternate programming segments is being transmitted (col. 26, ll. 15-24 (because of the plurality of feeder channels third feeder channel is obvious see Abstract in addition, se also col. 30, ll. 54-66 (one reason why the manage will be unable to provide a feeder channel is in part dependent on channel unavailability see col. 27, ll. 22-28))).

Regarding claim 77, Hendricks teaches the method, further comprising directing the at least one user terminal in the first subset and the at least one user terminal in the

second subset to re-tune to the first transmission channel at the end of the scheduled programming segment (col. 26, ll. 15-24 (re-tune at the end of the break is inherent see multichannel architecture)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6-10, 13, 15-22, 29, 32-37, 40-42, 44-49, 60, 63-64, 66-67, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, in view of WO 01/91474 A2 to Kinder et al. (Kinder).

Regarding claim 1, Hendricks teaches a method for delivery of programming content to a plurality of user terminals over a communications network (Abstract, ll. 1-3), comprising:

detecting an indicator indicative of an event in the delivery of the programming content (col. 30, ll. 2-4 (information about program break is an indicator indicative of the program break)); obtaining data descriptive of at least one group of members of the list (col. 71, ll. 3-10 (grouping information is data descriptive of the member or members of the group in the group map tables or list)); generating substantially in real time at least one programming segment based at least on the data (Abstract, ll. 9-15, & col. 72, ll. 40-45); and providing, to the at least one group, the at least one programming segment in lieu of at least a portion of the programming content during the event (col. 26, ll. 15-

24, & 36-41). In addition Hendricks teaches utilization of the group assignment matrix at terminals to determine which of the feeder channels to tune to among the plurality of feeder channels in order to receive alternate targeted advertisements in place of initially scheduled default advertisements during an advertisement break [col. 71, ll. 57-67-col. 72, ll. 51] which meets "in response to a detection of the indicator, generating a list of individual ones of the plurality of user terminals receiving the programming content" in part, specifically "generating a list of individual ones of the plurality of user terminals receiving a programming content", but Hendricks is silent on generating the list, in response to the detection of the indicator during the delivery of the programming content.

In the similar field of endeavor Kinder teaches dynamically updating demographic viewer profile based on the current viewership profile in near real-time and does so by receiving and indicator indicative of a change in current viewership at the headend, wherein the system replace already scheduled advertisements with alternate ones that are deemed to better satisfy the current viewership based the recently updated user profile detected by the system and wherein the system is able to target a specific group of viewers in the overall group of current viewers (pg. 3, ll. 29-33, pg. 4, ll.1-12, 31-33, pg. 5, ll. 1-33, pg. 6, ll. 1-24, pg. 7, ll. 1-9) which meets "in response to a detection of an indicator, generating a list of the individual ones of the plurality of user terminals currently receiving the programming content" (the feedback information meets "an indicator in the delivery of a selected programming content" and it is indicative of the event (change in current viewership) (note: A list of terminals currently receiving the

programming content is inherent because the system has to selectively filters terminals in order to target a subset of the currently active group of terminals see col. 5, ll. 21-23)).

Because both Hendricks and Kinder teach detecting indicators indicative of an event in the transmission of a selected programming content it would have been obvious to substitute one indicator for the other to achieve a predictable result.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the time at which the list of Hendricks is generated to include generating a list of the sub set of terminals to be targeted that are currently receiving the selected programming content, in response to a detection of an indicator as taught by Kinder in order to obtain a near real-time list of terminals receiving a current program, making it possible to target an entire group or sub group based on the most updated group or sub group profile, thereby increasing the effectiveness of the targeted advertisement.

Regarding claim 3, Hendricks teaches the method further comprising identifying available transmission channel in the network and transmitting at least one programming segment over at least one available transmission channel (col. 31, ll. 28-30, & col. 31, ll. 33-41).

Regarding claims 4, 31, Hendricks teaches the method wherein the event includes an advertisement break (col. 31, ll. 28-30).

Regarding claim 6, Hendricks teaches the method wherein at least one programming segment comprises one or more advertisements (col. 31, ll. 36-41).

Regarding claims 7, 21, 34, 63 Hendricks teaches the method wherein the network includes a two-way multi-channel delivery network (figure 4e (the collection engine (327) collects set-top box data via upstream)).

Regarding claim 8, Hendricks teaches the method wherein the network includes a cable TV network (figure 1, label 208 (Hendricks teaches a cable headend)).

Regarding claim 9, Hendricks teaches a method for delivering a program stream containing programming material over a communications network to a plurality of user terminals (Abstract), comprising:

detecting, in the program stream, a message indicating a scheduled programming segment (col. 30, ll. 2-4 (the spot placement engine receives information about program break (event) wherein the received information about the program break meets "an indicator" because the information tells the spot placement engine the available open pods of a program break see col. 31, ll. 28-30); Hendricks teaches a spot placement engine for determining which advertisements should occupy the pods during the broadcast programs based on the received information (col. 31, ll. 33-41) which meets "in response to a detection of the indicator, generating at least one programming segment"); Hendricks teaches obtaining data descriptive of at least one group of members of a group (col. 27, ll. 1-6).

In addition Hendricks teaches directing at least one user terminal in a selected one of the one or more groups to tune from a first transmission channel to a second transmission channel at the start of the scheduled programming segment; transmitting at least one of the data streams over the second transmission channel; and directing

the at least one user terminal in the selected one of the groups to re-tune to the first transmission channel at the end of the scheduled programming segment (col. 26, ll. 36-41, & col. 28, ll. 9-16 (the STB will inherently tune back to the main channel to continue programming except if over ridden by user)); one or more data streams containing one or more alternate programming segments for substituting the scheduled programming segment (col. 26, ll. 36-41, & Abstract).

Hendricks is silent on in response to a detection of the message, identifying a set of user terminals currently receiving the program stream; identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream; generating, subsequent to and based at least in part on identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream.

Kinder teaches identifying a set of user terminals currently receiving the program stream; identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream (page 5, ll. 1-3, 9-11, & figure 3, label 40 (the selector uses the feedback tags to modify demographic mapping)); generating, subsequent to and based at least in part on identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream (page 5, ll. 12-14, page 5, ll. 7-9, Page 5, ll. 6-23, & page 6, ll. 5-9, with emphasis on page 7, ll. 1-8).

Therefore it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify Hendricks to include in response to a detection of the message, generating a list of individual ones of the plurality of user terminals

currently receiving the programming content; obtaining data descriptive of at least one group of members of the list; generating, subsequent to and based at least in part on identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream as taught by Kinder in order to accurately predict and deliver contents that current active viewers are interested in seeing on a video distribution system (page 1, ll. 17-19).

Regarding claim 10, Hendricks teaches the method wherein the scheduled programming segment comprises one or more advertisements (col. 31, ll. 33-41).

Regarding claim 13, Hendricks teaches the method wherein at least one of the alternate programming segments comprises one or more advertisements (col. 26, ll. 18-24).

Regarding claim 15, Hendricks teaches where in the one or more groups are identified by analyzing demographic data associated within the user terminal set (col. 26, ll. 60-63).

Regarding claim 16, Hendricks teaches the method, wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network (col. 29, ll. 67, & col. 30, ll. 1-4).

Regarding claim 17, Hendricks teaches the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment (col. 29, ll. 67, & col. 30, ll. 1).

Regarding claim 18, Hendricks teaches the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment (col. 29, ll. 67, & col. 30, ll. 1).

Regarding claim 19, Hendricks teaches the method wherein the additional program streams utilize a subset of the available transmission channels (col. 29, ll. 67, & col. 30, ll. 1-4).

Regarding claim 20, Hendricks teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (col. 29, ll. 67, & col. 30, ll. 1-4).

Regarding claim 60, Hendricks and Kinder teaches every limitation as in claim 28. In addition Hendricks teaches wherein said one or more advertisements are not present within the programming schedule prior to said detecting (col. 27, ll. 32-38); wherein the available transmission channels comprise transmission channels which are allocated using switched broadcast techniques (Hendricks col. 26, ll. 15-41); and wherein, based at least in part on current requests for the programming content (col. 15, ll. 56-59, col. 27, ll. 39-41), a second at least one advertisement data stream is provided in lieu of the advertising segment within the programming content, the second at least one advertisement data stream containing alternative advertisements targeted at a second selected group of the plurality of users (col. 26, ll. 15-24, & 36-41, col. 26, ll. 54-col. 27, ll. 6 (the terminals which stay are in one group and those for which the alternate

advertisement are required will switch to the appropriate feeder channel to receive the alternate advertisement according the their switching plans)).

Regarding claim 33, Hendricks teaches the system wherein at least one programming segment comprises one or more advertisements (col. 31, ll. 36-41).

Regarding claim 36, Hendricks teaches a system for delivering a program stream containing programming material over a communications network to a plurality of user terminals (figure 1, entire), comprising:

a module for dynamically assigning transmission channels (figure 4c, label 305); a detector for detecting, in the program stream, a message indicating a scheduled programming segment (figure 4c, label 307, & col. 30, ll. 2-4 (the spot placement engine receives information about program break (event) wherein the received information about the program break)); Hendricks teaches a spot placement engine for determining which advertisements should occupy the pods during the broadcast programs based on the received information (col. 31, ll. 33-41) which meets "a processing unit responsive to a detection of the message, responsive to a detection of the indicator, generating at least one programming segment"); and grouping said identified set of one or more terminals into one or more groups based on at least one characteristic, the at least one characteristic comprising a function of at least the number of available transmission channels in the network (figure 4c, label 309, col. 26, ll. 60-63, & col. 27, ll. 1-6); a server (figure 4c, label 275) for generating one or more data streams containing one or more alternate programming segments for substituting the scheduled programming segment within the program stream said alternate programming segment not being

present in the programming schedule prior to said detecting (col. 31, ll. 28-30, & 33-36); and a mechanism for providing at least one of the data streams over a dynamically assigned transmission channel to a selected one of the groups (col. 26, ll. 60-63, col. 30, ll. 1-64, & Abstract).

Hendricks is silent on a processing unit responsive to a detection of the message, for identifying a set of one or more user terminals which is currently receiving the program stream.

Kinder teaches a processing unit, for identifying a set of one or more user terminals which is currently receiving the program stream generating a list of an audience currently receiving the programming content (page 5, ll. 1-3, 9-11, & figure 3, label 40 (the selector uses the feedback tags to modify demographic mapping)).

Therefore it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify Hendricks to include a processing unit responsive to a detection of the message, for identifying a set of one or more user terminals which is currently receiving the program stream as taught by Kinder in order to accurately predict and deliver contents that current active viewers are interested in seeing on a video distribution system (page 1, ll. 17-19).

Regarding claim 37, Hendricks teaches the system wherein the scheduled programming segment comprises one or more advertisements (col. 26, ll. 18-24).

Regarding claim 40, Hendricks teaches the system wherein at least one of the alternate programming segments comprises one or more advertisements (Abstract).

Regarding claim 41, Hendricks teaches directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment (col. 26, ll. 36-41, & col. 28, ll. 9-16 (the STB will inherently tune back to the main channel to continue programming except if over ridden by user)).

Regarding claim 42, Hendricks teaches the system wherein the one or more groups are identified by analyzing demographic data associated with the user terminal set (col. 26, ll. 60-63).

Regarding claim 44, Hendricks teaches the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment (col. 30, ll. 1-4).

Regarding claim 45, Hendricks teaches silent about the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment (col. 30, ll. 1-4).

Regarding claim 46, Hendricks teaches the method wherein the additional program streams utilize a subset of the available transmission channels (col. 30, ll. 1-4).

Regarding claim 47, Hendricks teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (col. 30, ll. 1-4).

Regarding claim 66, Hendricks teaches the method, wherein said programming content comprises advertising and non-advertising content (col. 27, ll. 20-22).

Regarding claim 67, Hendricks teaches the method, wherein said at least one similar characteristic comprises a similar demographic (col. 26, ll. 60-63).

Regarding claim 70, Hendricks teaches the method, further comprising: identifying available transmission channels in the network; and transmitting the at least one programming segment over at least one of the available transmission channels (Abstract).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, in view of Kinder, in view of US Patent Publication 2003/0056217 to Brooks (Brooks).

Regarding claim 28, Hendricks teaches a system for delivering programming content over a communications network (figure 1, entire), comprising:

a detector (figure 4c, label 307) for detecting an indicator indicative of an event in the delivery of selected programming content (col. 30, ll. 2-4 (the spot placement engine receives information about program break (event) wherein the received information about the program break meets "an indicator" because the information tells the spot placement engine the available open pods of a program break see col. 31, ll. 28-30); a server for generating at least one programming segment based at least on the

data (Abstract, ll. 9-15, col. 0071, ll. 40-45) and a mechanism for providing, to the at least one group, the at least one programming segment in lieu of at least a portion of the selected programming content during the event (col. 26, ll. 36-41, & Abstract); a processing unit (figure 4c), responsive to a detection of the indicator, for generating a list of an audience currently receiving the selected programming content (Abstract, ll. 9-15, col. 0071, ll. 40-45, data being obtained which is descriptive of at least one group of members of the audience (col. 0071, ll. 3-10 (group information meets data descriptive of the members of the group in a group map table)), in part but Hendricks is silent on generating the list, in response to the detection of the indicator during the delivery of the selected programming content; wherein at least one of a plurality of transmission channels is utilized for the delivery of only the selected programming content, the plurality of transmission channels not being utilized for delivery of programming content which has not been selected by at least one user; and wherein at least one of remaining ones of the plurality of transmission channels are utilized for the delivery of the at least one programming segment.

In the similar field of endeavor Kinder teaches dynamically updating demographic viewer profile based on the current viewership profile in near real-time and does so by receiving and indicator indicative of a change in current viewership at the headend, wherein the system replace already scheduled advertisements with alternate ones that are deemed to better satisfy the current viewership based the recently updated user profile detected by the system and wherein the system is able to target a specific group of viewers in the overall group of current viewers (pg. 3, ll. 29-33, pg. 4, ll. 1-12, 31-33,

pg. 5, ll. 1-33, pg. 6, ll. 1-24, pg. 7, ll. 1-9) which meets "in response to a detection of an indicator, generating a list of the individual ones of the plurality of user terminals currently receiving the programming content" (the feedback information meets "an indicator in the delivery of a selected programming content" and it is indicative of the event (change in current viewership) (note: A list of terminals currently receiving the programming content is inherent because the system has to selectively filters terminals in order to target a subset of the currently active group of terminals see col. 5, ll. 21-23)).

Hendricks teaches feeder channel management or assignment (col. 26, ll. 42-51), but Hendricks and Kinder are silent on wherein at least one of a plurality of transmission channels is utilized for the delivery of only the selected programming content, the plurality of transmission channels not being utilized for delivery of programming content which has not been selected by at least one user; and wherein at least one of remaining ones of the plurality of transmission channels are utilized for the delivery of the at least one programming segment.

Brooks teaches wherein at least one of a plurality of transmission channels is utilized for the delivery of only the selected programming content, the plurality of transmission channels not being utilized for delivery of programming content which has not been selected by at least one user; and wherein at least one of remaining ones of the plurality of transmission channels are utilized for the delivery of the at least one programming segment (Para. 0005, ll. 1-24, Par. 0028, ll. 1-47, figure 6).

Therefore it would have been obvious to modify the system of Hendricks and Kinder to include channel assignment to carry only selected programs based upon user requests as taught Brooks in order optimize the utilization of transmission bandwidth, wherein only selected channels are modulated and transmitted, thereby effectively conserving the network bandwidth.

Claims 2, 11, 29, 38, 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, in view of Kinder, in view of US Patent 7,237,250 to Kanojia et al. (Kanojia).

Regarding claims 2, 11, 29, 38, 61, Hendricks teaches a commercial break and channel switching architecture (col. 26, ll. 15-41), but Hendricks and Kinder are silent on the method wherein the indicator contains a message which includes the start and end of event.

Kanojia teaches cue tone to indicate a start and end of a program commercial event (col. 6, ll. 58-60, & col. 7, ll.4-8) which meets "the method wherein the indicator contains a message which includes the start and end of event".

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hendricks and Kinder to the method wherein the indicator contains a message which includes the start and end of event as taught by Kanojia in order to effectively manage a tuner wherein the tuner is able switch to alternate content during the commercial break and switch back to the regular channel after the commercial break.

Claims 5, 12, 31, 39, 62, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, in view of Kinder, in view of Kanojia.

Regarding claims 5, 12, 31, 39, 62, Hendricks teaches a commercial break and channel switching architecture (col. 26, ll. 15-41), but Hendricks and Kinder are silent on the method wherein the indicator includes a digital program insertion (DPI) cue.

Kanojia teaches cue tone to indicate a start and end of a program commercial event (col. 6, ll. 58-60, & col. 7, ll.4-8) which meets "the method wherein the indicator includes a digital program insertion (DPI) cue" (DPI cue is an obvious variant of the cue tone).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hendricks and Kinder to the method wherein the indicator includes a digital program insertion (DPI) cue as taught by Kanojia in order to effectively manage a tuner wherein the tuner is able switch to alternate content during the commercial break and switch back to the regular channel after the commercial break.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571)2727296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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